

PLANNING COMMISSION MINUTES

April 4, 2001

CALL TO ORDER:

Chairman Vlad Voytilla called the meeting to order at 7:02 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Vlad Voytilla, Planning Commissioners Bob Barnard, Gary Bliss, Eric Johansen, Brian Lynott and Dan Maks. Planning Commissioner Chuck Heckman was excused.

Associate Planner Tyler Ryerson, Senior Planner John Osterberg, Traffic Engineer Sean Morrison, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Voytilla, who presented the format for the meeting.

VISITORS:

Chairman Voytilla asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

On question, staff indicated that there were no staff communications at this time.

NEW BUSINESS:

PUBLIC HEARINGS:

A. CPA 2000-0001 – WILLIAMS COMPREHENSIVE PLAN AMENDMENT AT 11035 SW CENTER STREET

(Request for continuance to May 2, 2001)

This land use application has been submitted for approval of a Comprehensive Plan Amendment (CPA) to change the City's existing Comprehensive Plan Map land use designation for the parcel at 11035 SW Center Street from Urban Standard Residential Density to Urban Medium Residential Density. The development proposal is located on Tax Lot 2400 of Assessor's Map 1S1-10DC, and is approximately 0.84 of an acre in size.

1
2 **B. RZ 2000-0004 – WILLIAMS REZONE AT 11035 SW CENTER STREET**

3 (Request for continuance to May 2, 2001)

4 This land use application has been submitted for approval of a Rezone (RZ) to
5 change the City's existing zoning map designation for the parcel at 11035 SW
6 Center Street from Urban Standard Density (R-7) to Urban Medium Density (R-
7 2). The proposed zone change will increase the allowed density on the subject
8 site from 7,000 square feet of net parcel area per dwelling unit to 2,000 square
9 feet of net parcel area per dwelling unit. The development proposal is located on
10 Tax Lot 2400 of Assessor's Map 1S1-10DC, and is approximately 0.84 of an acre
11 in size.

12
13 Commissioner Maks **MOVED** and Commissioner Lynott **SECONDED** a motion
14 that CPA 2000-0001 – Williams Comprehensive Plan Amendment at 11035 SW
15 Center Street be continued to a date certain of May 2, 2001.

16
17 Commissioner Maks **MOVED** and Commissioner Lynott **SECONDED** a motion
18 that RZ 2000-0004 – Williams Rezone at 11035 SW Center Street be continued to
19 a date certain of May 2, 2001.

20
21 **OLD BUSINESS:**

22
23 Chairman Voytilla opened the Public Hearing and read the format for Public
24 Hearings. There were no disqualifications of the Planning Commission members.
25 No one in the audience challenged the right of any Commissioner to hear any of
26 the agenda items, to participate in the hearing or requested that the hearing be
27 postponed to a later date. He asked if there were any ex parte contact, conflict of
28 interest or disqualifications in any of the hearings on the agenda. There was no
29 response.

30
31 **CONTINUANCES:**

32
33 **A. CUP 99-00032 – HOME DEPOT CONDITIONAL USE PERMIT**

34 (Continued from February 21, 2001)

35 This land use application has been submitted for approval of a Conditional Use
36 Permit (CUP) in order to exceed the current 15,000 square foot retail building
37 limitation in the Campus Industrial (CI) zone. The applicant has proposed a
38 building size of approximately 107,500 square feet with an 11,780 square foot
39 garden center and 490-space parking structure on approximately 7.82 acres of
40 land located at 5150 SW Western Avenue. The development proposal is located
41 on Assessor's Map 1S1-14CB, Tax Lots 1000 and 1100, and is zoned Campus
42 Industrial (CI) with a Development Control Area (DCA) overlay district.

43
44 Commissioner Maks mentioned that he had received and not listened to a
45 telephone message from a constituent regarding this application.
46

1 On question, Associate Planner Tyler Ryerson indicated that no film of the site is
2 available.

3
4 Commissioners Lynott, Johansen, Barnard, Bliss and Maks and Chairman
5 Voytilla all indicated that they had visited the site and had not had any contact
6 with anyone regarding the application.
7

8 Mr. Ryerson presented the staff report and described the proposed development
9 for a Conditional Use Permit (CUP) in order to exceed the 15,000 square foot
10 retail building limitation in the Campus Industrial (CI) zone for the construction
11 of a building of approximately 107,500 square feet with an 11,780 square foot
12 garden center and 490-space two-level parking structure. He discussed the history
13 of the application and changes to the Development Code and Comprehensive Plan
14 that have occurred since the application was originally submitted, adding that this
15 is the fourth revision submitted by the applicant. He mentioned eighteen separate
16 correspondences that have been received and several neighborhood meetings that
17 have been conducted. He discussed the site, which is located at the corner of SW
18 5th Street and SW Western Avenue, observing that the 79.2 acres of Campus
19 Industrial zoned property is located in the Development Control Area (DCA) and
20 that a 10% retail ratio would allow for 7.92 acres of retail use in this DCA.
21 Noting that 0.833 acres of this property is currently used for retail use, he clarified
22 that 7.087 acres of this DCA property would be available for retail use. He
23 mentioned that the project site consists of two parcels, including a cul-de-sac,
24 adding that the applicant has proposed an administrative property lot line
25 adjustment through a separate application, moving the property line along the
26 eastern boundary, in which the Elm Street neighborhood is located. He pointed
27 out that the staff report includes one error regarding the sound absorption material
28 for the eight-foot retaining wall. He mentioned that Condition of Approval No. 7
29 should be revised, adding that the last sentence should be deleted. Concluding, he
30 recommended approval, subject to certain Conditions of Approval, and offered to
31 respond to any questions or comments.
32

33 Commissioner Barnard pointed out that because this development would utilize
34 the remainder of the 10% retail use, no additional retail use would be permitted in
35 this area. He emphasized that this would allow no further development of
36 services to the area, such as gas stations, grocery stores, convenience stores or
37 restaurants.
38

39 Mr. Ryerson agreed with Commissioner Barnard's assessment of the retail use
40 situation, reminding him that the 0.833 acres of retail currently being utilized
41 could also potentially redevelop at some future point.
42

43 Commissioner Maks referred to pages 9 and 14 of the Staff Report, emphasizing
44 that the Development Code indicates that all outdoor display items in the garden
45 center should not be visible from the street, sidewalk or exterior grounds. He

1 discussed page 24 of the Staff Report, specifically the 200 family-wage jobs at 28
2 jobs per acre, requesting a definition of a family-wage job.

3
4 Mr. Ryerson advised Commissioner Maks that the applicant should be able to
5 furnish any required information regarding a family-wage job.

6
7 Commissioner Maks referred to page 33 of the Staff Report, specifically the hours
8 of operation and number of employees, pointing out that this particular zone does
9 not limit hours of operation. He expressed his concern that although *Home Depot*
10 proposes to operate from 7:00 a.m. through 9:00 p.m., Monday through Saturday,
11 and 8:00 a.m. through 8:00 p.m. on Sunday, at some future point another
12 application could operate on a 24-hour basis. He read excerpts from the
13 Comprehensive Plan, as follows:

14
15 “The industrial park located in the vicinity of SW Western Avenue
16 and SW Allen Boulevard has developed into a strong, diversified,
17 industrial distribution center, and the remaining property should be
18 retained and protected for future industrial development.”

19
20 “In order for the employment center, mixed industrial and office
21 use concept to function effectively, a limited amount of commercial use
22 should be encouraged (restaurants and sandwich shops, personal and
23 banking services), and limiting retail and recreational facilities will allow
24 employees to stay on-site during lunch and/or business hours.”

25
26 Commissioner Maks emphasized that these are purpose statements under 3.6
27 Industrial Designations, and requested clarification of how this application
28 promotes and enhances these purposes.

29
30 Mr. Ryerson informed Commissioner Maks that the Campus Industrial area in
31 that particular DCA does allow for the 10% retail use, pointing out that this is
32 designed to allow for up to that 10% retail and does not indicate that this can not
33 be achieved through one use.

34
35 Commissioner Maks commended Mr. Ryerson for his efforts on the Staff Report.

36
37 Commissioner Bliss referred to page 29 of the Staff Report, specifically the policy
38 to provide satisfactory levels of maintenance to the transportation system in order
39 to preserve user safety, facility aesthetics, and the integrity of the system as a
40 whole. He referred to page 30 of the Staff Report, specifically the policy to
41 maintain access management standards for arterial and collector roadways
42 consistent with City, County and State requirements to reduce conflicts between
43 vehicles and trucks, as well as conflicts between vehicles, bicycles and
44 pedestrians. He referred to page 33 of the Staff Report, specifically the statement
45 indicating that the proposed *Home Depot* store will mitigate transportation
46 impacts to assure that traffic operation within the vicinity of the site will be

1 acceptable. He expressed concern that the manner in which delivery trucks would
2 access the site without creating problems has not been specifically addressed,
3 adding that he anticipates some significant conflicts with deliveries, customers
4 and traffic.

5

6 Mr. Ryerson advised Commissioner Bliss that the truck deliveries would actually
7 access the site by turning east on SW 5th Street, using the easterly access point
8 just beyond the parking structure, and pointed out that the applicant is also
9 proposing to widen SW 5th Street above and beyond the current standards for
10 local streets.

11

12 Commissioner Bliss informed Mr. Ryerson that he understands, emphasizing that
13 as a former truck driver, he has witnessed trucks attempting to maneuver streets
14 with 25 curb radiuses such as this, expressing his concern with the ability of these
15 trucks to remain within their own lanes without interfering with other lanes and
16 vehicles.

17

18 Traffic Engineer Sean Morrison addressed Commissioner Bliss' concerns, and
19 described improvements to the intersection of 5th Street and Western Avenue and
20 along the frontage proposed by the applicant. He pointed out that while there is a
21 25-foot right-of-way radius, the actual radius of pavement for maneuvering would
22 be greater due to the five-foot bike lanes on both 5th Street and Western Avenue,
23 emphasizing that the street system actually provides that trucks are allowed to use
24 these lanes for their turning radii.

25

26 Commissioner Bliss requested clarification of any provisions to prevent an
27 individual from making a left turn when exiting the store.

28

29 Mr. Morrison advised Commissioner Bliss that the only exit for customers that is
30 restricted is the exit from the parking garage on Western Avenue. He mentioned
31 that the Design Review application contains a Condition of Approval providing
32 for the applicant to construct a raised center median from 5th Street for a distance
33 of 280 feet in order to restrict that particular movement from out of the parking
34 structure.

35

36 Commissioner Bliss informed Mr. Morrison that this median satisfies his
37 concerns with this particular issue.

38

39 Commissioner Johansen requested clarification of the half-street improvement,
40 specifically what Western Avenue would look like after the store is opened.

41

42 Mr. Morrison advised Commissioner Johansen that after the store opens, Western
43 Avenue would include a center left-turn lane, two travel lanes and a bicycle lane
44 in the northbound direction. He noted that the proposed improvements on the east
45 side would include a center turn lane extended from the intersection, the raised

1 median and a bicycle lane, adding that there would be no bicycle lane or
2 pedestrian improvements on the west side.

3
4 Commissioner Johansen questioned the significance of the half-street
5 improvement.

6
7 Mr. Morrison advised Commissioner Johansen that the half-street improvement
8 would provide additional width, adding that the City of Beaverton does not have
9 the authority to require the applicant to acquire the additional property necessary
10 for a full-street improvement.

11
12 Commissioner Johansen expressed concern with establishing a precedent for a
13 building structure to be two-sided.

14
15 Mr. Ryerson advised Commissioner Johansen that based upon the definitions of
16 the Development Code, specifically walled, roofed and enclosing property, it is
17 not his opinion that this establishes a precedent.

18
19 Commissioner Johansen expressed his opinion that this is a non-common sense
20 interpretation of the word building or structure.

21
22 Mr. Ryerson observed that it might be necessary to consider the north and south
23 ends, which are not walled, adding that other options could alleviate his concerns.

24
25 Commissioner Johansen referred to the 107,000 square foot main parcel,
26 requesting clarification of whether this is the building size, as opposed to the
27 parcel size.

28
29 Mr. Ryerson apologized, observing that the parcel size should be over 300,000
30 square feet.

31
32 Commissioner Johansen referred to page 16 of the Staff Report, observing that
33 this application would render the eastern edge of the property inappropriate for
34 any other use.

35
36 Mr. Ryerson advised Commissioner Johansen that this property has been
37 conditioned to be non-buildable, adding that in order to provide a buffer for the
38 properties to the east, the applicant is proposing a great deal of mitigation on that
39 site.

40
41 Commissioner Johansen questioned whether it is Mr. Ryerson's opinion that this
42 application is not an accounting scheme, in effect, in an order to meet the 10%
43 retail use.

44
45 Mr. Ryerson informed Commissioner Johansen that the original application had
46 proposed that particular property line adjustment, adding that the rationale had

1 been to provide this buffer for the Elm Street neighborhood. He pointed out that
2 the applicant is attempting to make certain that they are capable of meeting the
3 required 10% retail use.
4

5 Expressing his concern with establishing a precedence, Commissioner Johansen
6 referred to page 23, specifically Policy No. 3.6.2.2, which provides that light
7 industrial areas designated on the plan should be retained for industrial use.
8 Pointing out that the term light 'industrial' is not capitalized in this section, he
9 noted that the purpose statement for Campus Industrial specifically references
10 light manufacturing and questioned whether this could be interpreted to include
11 the Campus Industrial zone as being subject to this particular provision.
12

13 Mr. Ryerson informed Commissioner Johansen that he had thought of the Light
14 Industrial zoning district, adding that light industrial could be considered to mean
15 light manufacturing.
16

17 Commissioner Johansen referred to page 25 of the Staff Report, specifically
18 Policy No. 3.6.2.7, which provides for the preservation of prime industrial lands
19 for industrial purposes, and requested clarification of whether all of the City's
20 industrial areas allow for light industrial uses.
21

22 Mr. Ryerson advised Commissioner Johansen that light industrial use is allowed
23 in all of the City's industrial areas.
24

25 Commissioner Johansen questioned whether this indicates that there is actually no
26 prime industrial land in the City of Beaverton.
27

28 Observing that this is a good question, Mr. Ryerson stated that the Campus
29 Industrial zone itself is more of a liberal type of industrial use, allowing more
30 non-industrial uses than the other industrial zones.
31

32 Commissioner Johansen discussed the area of SW Western Avenue and SW Allen
33 Boulevard, observing that this remains a prime area for the development of
34 industry such as warehouse distribution and light manufacturing. He stated that
35 he is not certain that he agrees with the facts and findings in that particular
36 section. He referred to pages 23 and 24 of the Staff Report, specifically the
37 statement indicating the creation of eight to nine manufacturing jobs per acre, and
38 questioned whether the number of jobs per acre could increase significantly,
39 depending upon what type of activity is occurring on the site.
40

41 Mr. Ryerson agreed that certain activities could substantially increase the number
42 of manufacturing jobs per acre.
43

44 Commissioner Johansen indicated that he is also interested in the applicant's
45 definition of a family-wage and questioned whether this particular application is
46 what is considered bulk retail.

1 Mr. Ryerson advised Commissioner Johansen that bulk retail is more of the
2 *Costco*-type of use, in which commodities must be purchased in bulk amounts.
3 He pointed out that while there are opportunities to purchase in surplus, customers
4 have the option of purchasing individual or separate items.

5
6 Commissioner Johansen questioned the amount of available industrially zoned
7 property is located in the City of Beaverton and how this compares on a long-term
8 basis.

9
10 Senior Planner John Osterberg noted that while he does not currently have this
11 information, it might be available.

12
13 Commissioner Johansen clarified that he would like the figures indicating
14 available industrially zoned property within the City of Beaverton, relative to any
15 identified need over a particular period of time.

16
17 Commissioner Bliss requested information regarding the drainage situation,
18 observing that the report had referenced a discharge point of a 48-inch culvert,
19 adding that he anticipates problems with the impact of potentially rising water and
20 is concerned with the absence of any comments from technical staff.

21
22 Mr. Ryerson assured Commissioner Bliss that that the applicant certainly could
23 address this issue, adding that the Facilities Review Committee did approve the
24 project, with conditions.

25
26 Referring to water quality, Commissioner Bliss expressed concern that the criteria
27 established by Unified Sewerage Agency (USA), as adopted by the City of
28 Beaverton in relation to the removal of 65% phosphorus is not addressed.

29
30 Mr. Ryerson advised Commissioner Bliss that the applicant could address this
31 issue, adding that a copy of the Facilities Review is available.

32
33 Referring to page 11 of the Staff Report, Chairman Voytilla requested
34 clarification of who would eventually own the 0.619-acre strip of property.

35
36 Mr. Ryerson suggested that the applicant could respond to this question.

37
38 Chairman Voytilla referred to Policy 6.2.3, specifically respecting the character of
39 the surrounding neighborhood, suggesting that this issue had not been addressed
40 with respect to the properties to the east.

41
42 Mr. Ryerson agreed that these properties should have been included with the other
43 surrounding areas, adding that the applicant has been working diligently with
44 those neighbors to the east in an attempt to mitigate their concerns and that the
45 recommended Conditions of Approval reflect these efforts. He discussed
46 Condition of Approval No. 10, providing for a five foot high wall along the east

1 side of the ramp leading from the lower level to the upper level parking deck; and
2 Condition of Approval No. 11, providing for a four foot high wall on the north
3 side of the upper deck. He pointed out that Condition of Approval No. 12
4 addresses the acoustical measures, specifically the utilization of an acoustically
5 absorptive material, such as 'Pyrok'. He discussed lighting, landscaping, color
6 schemes and designs, observing that every effort has been made to minimize the
7 impact on the surrounding neighborhood.

8
9 Chairman Voytilla questioned whether any record is maintained of inquiries from
10 individuals considering the City of Beaverton for industrial properties.

11
12 Mr. Ryerson suggested that the Economic Development Division might perform
13 some sort of tracking of this particular activity.

14
15 Chairman Voytilla referred to page 24 of the Staff Report, requesting clarification
16 of the credibility of the *1998 Columbia River Economic Development Council*
17 *Report*.

18
19 Mr. Ryerson assured Chairman Voytilla that the applicant could discuss
20 information they had referenced from this source.

21
22 Chairman Voytilla questioned whether Mr. Ryerson had obtained any information
23 from Metro regarding these issues.

24
25 Mr. Ryerson informed Chairman Voytilla that he had not obtained any such
26 information from Metro.

27
28 **APPLICANT:**

29
30 **FRANK PARISI**, legal counsel representing *Home Depot*, described the efforts
31 that made it possible to submit the application for this project, adding that the
32 applicant is on their fourth iteration of this site plan and design and is glad to
33 finally arrive. He introduced the applicant's architect, Robert DeAlmeida, adding
34 that he would the site plan and that traffic engineers from *Kittelson & Associates,*
35 *Inc.*, Julia Kuhn Butorac and Matt Hughart would be available to respond to
36 questions and comments. He mentioned that the acoustic engineer, Kerrie
37 Standlee, is also available to provide clarification of the sound abatement issues.

38
39 **ROBERT DeALMEIDA**, representing *Larry J. Farrell Architects*, on behalf of
40 *Home Depot*, provided illustrations of the project design, emphasizing that every
41 attempt had been made to provide a design that was compatible with the entire
42 region, including the neighbors on each side. He mentioned that it had been
43 determined that the store could be located in such a way that the bulk of the store
44 would shield the activity that would occur at the front of the store, specifically
45 traffic, lighting and noise. He pointed out that the applicant had met with both the

1 Raleigh Hills Homeowner's Association and the Elm Street Neighbors, and
2 discussed the history of the application.

3
4 Chairman Voytilla requested that Mr. DeAlmeida discuss the current application.

5
6 Mr. DeAlmeida addressed the issues concerning the garden center, specifically
7 concerns with screened-off areas with pallets of garden materials, adding that the
8 applicant's plan for an enclosed area, like a building, would allow this area with
9 live plant materials to breathe through some of the walls, adding that this would
10 eliminate the visual appearance of a garden center. He pointed out that a
11 consequence of these efforts had been that the Building Department had advised
12 the applicant that because it is fully enclosed with a roof, this area is actually
13 considered a building. He described the design that had been submitted for the
14 building, observing that it has the appearance of a Campus Industrial style
15 building, emphasizing that this is not comparable to the design of the earlier
16 *Home Depots*. He noted that they had attempted to develop what he referred to
17 as a metropolitan model, pointing out that the smaller the site, the more necessary
18 it becomes to address compatibility issues. He pointed out that rather than relying
19 on operational restrictions that involve human beings, the applicant had made
20 efforts to provide physical design elements that would eliminate or mitigate these
21 potential visual and audio conflicts with adjacent neighbors before they become
22 an issue. Concluding, he offered to respond to any questions or comments.

23
24 **KERRIE STANDLEE**, acoustic engineer with *Daly, Standlee & Associates*,
25 representing *Home Depot*, discussed his review of the Staff Report and noise
26 mitigation measures, adding that he concurs with everything except for Condition
27 of Approval No. 7, regarding treatment of acoustical material to the sound wall,
28 which has been addressed by staff. He referred to a communication dated August
29 25, 2000, in which he had addressed ideas of the architect relative to noise
30 control, after the store design had been modified 90%, which exposed the
31 neighbors to a greater amount of traffic. Concluding, he offered to respond to any
32 questions or comments.

33
34 Mr. Parisi clarified that one of the proposed Neighborhood Mitigation Conditions
35 of Approval included as an Exhibit in the Staff Report pertains to the
36 condominium gate, adding that this has been approved by the City of Beaverton.
37 He mentioned that it is unclear at what point one is supposed to count the number
38 of existing retail uses within the DCA, specifically whether these uses would be
39 counted on the date that the application is filed, on the day prior to the Public
40 Hearing, or possibly on the day prior to the City Council Meeting, adding that this
41 count had just been done. Observing that there had been questions regarding
42 whether *Home Depot* is considered all retail, or a mixture of retail and wholesale
43 use, he pointed out that while the wholesale use had been estimated at basically
44 30% to 35%, the range of estimates for this type of store varied from 11% to 37%.

1 Commissioner Maks requested clarification of a breathable wall, specifically
2 whether he could see through this wall.

3
4 Mr. DeAlmeida described a breathable wall, observing that this involves large
5 steel columns, which provide the structural support of the walls and doors, noting
6 that they use one by one, eight inches on center, as a grill. He added that behind
7 that grill, they install a checkered punched-out pattern that prevents individuals
8 from inserting their hand into the wall. He noted that because there is an air
9 exchange, the wall breathes, pointing out that it is generally possible to see into
10 the structure, to some extent.

11
12 Commissioner Maks advised Mr. DeAlmeida that this involves what he refers to
13 as a “wishy-washy” area, noting that this also involves requirements related to the
14 screening of HVAC equipment.

15
16 **JULIA KUHN BUTORAC** and **MATT HUGHART**, traffic engineers
17 representing *Kittelson and Associates*, introduced themselves and offered to
18 respond to any questions or comments.

19
20 Expressing his appreciation of what he referred to as a good traffic report,
21 Commissioner Maks questioned the queuing on the Beaverton/Hillsdale Highway,
22 adding that it is necessary to include the additional fifty feet on the left hand turn
23 lane. He observed that this additional fifty feet would now interfere with an
24 existing driveway on the other parcel, questioning whether the applicant had
25 considered the effect on the traffic pattern exiting that parcel.

26
27 Observing that Beaverton/Hillsdale Highway is actually a five-lane facility, Ms.
28 Kuhn Butorac noted that lengthening the left turn lane would basically modify the
29 striping.

30
31 Commissioner Maks expressed concern with the possibility that this turn lane
32 would be filled to its full capacity of 350 feet during peak hours, emphasizing that
33 this would block the driveway for the other parcel.

34
35 Ms. Kuhn Butorac advised Commissioner Maks that they would concentrate on
36 the worst fifteen-minute period during the p.m. peak hour, adding that this full
37 capacity would occur several times during this hour, not necessarily for the full
38 fifteen minutes nor for the full hour.

39
40 Referring to the 350-foot queuing, Commissioner Maks questioned whether the
41 expectation could possibly be for three 15-minute periods during the two-hour
42 peak period.

43
44 Ms. Kuhn Butorac advised Commissioner Maks that she anticipates this long
45 queuing for a five-minute period of time during the two-hour peak period.

1 Commissioner Maks referred to page 11 of the Staff Report, observing that while
2 they had provided the traffic counts for a mid-week day in July, the location is
3 near the Beaverton School District's bus storage, which would create a
4 substantially greater amount of traffic beginning in September. He pointed out
5 that this would affect the traffic both in the morning and in the evening, adding
6 that with the final pick-up time of 3:30 p.m., this traffic could continue until 4:30
7 p.m. or 5:00 p.m. He discussed the actual trip generation numbers, observing
8 that these had been generated from a study, rather than the ITE Manual.

9
10 Ms. Kuhn Butorac advised Commissioner Maks that their study is slightly more
11 conservative than the ITE Manual, which would estimate a lower trip generation
12 and a much higher pass-by rate.

13
14 Commissioner Maks expressed his disagreement regarding pass-by traffic for
15 *Home Depot*, pointing out that you just don't drop by on your way home from
16 work to pick up a four by four.

17
18 Ms. Kuhn Butorac observed that the term for a *Home Depot* is a home
19 improvement superstore, adding that she disagrees with the surveys, which
20 indicate that 48% of the customers consist of pass-by traffic. She pointed out that
21 based upon *Home Depot* usage and adjacent street traffic, the daily volume for
22 Western Avenue is 12,000 to 15,000 vehicles and that approximately 6% of these
23 vehicles would actually stop by their site.

24
25 Commissioner Maks questioned the traffic generation from the ITE Manual for a
26 110,000 square foot grocery store, in comparison to the proposed *Home Depot*.

27
28 Ms. Kuhn Butorac advised Commissioner Maks that a 110,000 square foot
29 grocery store would generate substantially more traffic than the proposed *Home*
30 *Depot*.

31
32 Commissioner Maks referred to the outright allowed uses for this particular zone,
33 specifically the trip generation for a 110,000 square foot printing, publishing or
34 media producing company, in comparison to *Home Depot*.

35
36 Ms. Kuhn Butorac advised Commissioner Maks that this type of light industrial
37 usage would generate approximately one third of the trips of a *Home Depot*,
38 adding that a bank would generate a greater amount of traffic and that she does
39 not know what kind of traffic a child care center would generate.

40
41 Commissioner Maks pointed out that the actual issue involves a.m. and p.m. peak
42 periods, rather than total trip generation. He noted that while studies generally
43 involve actual miles traveled, most drivers determine their routes according to
44 time, rather than miles.

1 Ms. Kuhn Butorac advised Commissioner Maks that they had actually not utilized
2 the (Vehicular Miles Traveled) VMT Analysis as part of the Traffic Impact Study,
3 pointing out that the approval criteria had not been measured against the VMT
4 Analysis, which she described as a qualitative analysis to support some of the
5 Conditional Use Permit application. She agreed that time, rather than distance, is
6 a greater indicator of actual traffic patterns, adding that this had been the only tool
7 available to them at that particular time in order to make qualitative findings.

8
9 Commissioner Maks questioned whether any consideration had been given to the
10 right in, right-out movement, specifically a movement to right-out and cut too
11 quickly to make a left from that driveway on to 5th Street.

12
13 Ms. Kuhn Butorac pointed out that the amount of traffic that has been estimated
14 to use 5th Street is actually fairly low, adding that this would most likely involve
15 only 5% of their traffic.

16
17 Commissioner Maks referred to the wholesale/retail issue (wholesale 35%; retail
18 65%), requesting clarification of whether 35% of the customers pay less for a
19 light bulb.

20
21 Mr. Parisi advised Commissioner Maks that this is dependent upon the volume in
22 which a customer purchases items, pointing out that the merchandise is displayed
23 in such a way to provide discounts for items purchased in bulk amounts.

24
25 Observing that the percentage of retail to wholesale is being utilized as partial
26 justification for approval of this application, Commissioner Barnard pointed out
27 that 7.087 acres of this property is not actually going to be retail use.

28
29 Commissioner Johansen requested clarification of the estimated number of eight
30 to nine manufacturing jobs per acre.

31
32 Advising Commissioner Johansen that this figure had been obtained through the
33 *1998 Columbia River Economic Development Council Report*, Mr. Parisi pointed
34 out that he has more information regarding *Home Depot* employment than the
35 patterns of employment in the Metro region. Referring to the request for
36 clarification of a "family-wage" job and the amount of jobs per acre, he pointed
37 out that approximately 200 jobs would be generated on the 0.087 acres of R-7
38 property. He mentioned that the initial payroll would equal approximately \$3.5
39 Million and eventually reach \$5 Million, adding that this would include full-time
40 and part-time employment. Observing that approximately seventy individuals
41 would be working at the store during each shift, he noted that the hours are long
42 and that this includes part-time employees. He mentioned that the average wage
43 is approximately \$12.50 per hour, generating an annual income in the \$25,000
44 through \$26,000 range, expressing his opinion that while this is not an actual
45 Bureau of Labor definition of a "family-wage" job, it is not a hamburger-flipper
46 job and could adequately support a family.

1
2 Commissioner Johansen informed Mr. Parisi that the *Oregon Economic and*
3 *Community Development Department* defines a “family-wage” job as one that
4 pays the average covered payroll for worker in the particular county in which you
5 are dealing with. He pointed out that the 1998 data in Washington County
6 describes that average annual payroll for a worker as approximately \$36,600
7 annually or roughly \$17.50 per hour, adding that he has been struggling with the
8 notion of whether or not this is actually a “family-wage” job in comparison to
9 what one might expect of industrial-type usage of the site.

10
11 Mr. Parisi noted that this issue had been studied at the *Home Depot* in Sherwood,
12 which is located in a Light Industrial zone, adding that they had found themselves
13 comparing warehouse jobs and high-tech jobs. He mentioned that Carl Anderson,
14 who is a broker, is available to discuss the aspects of the different potential uses
15 of this property.

16
17 Commissioner Johansen pointed out that the *State of Oregon Employment*
18 *Department* does classify building materials and garden supplies as a particular
19 industry group, adding that their 1999 figures are fairly consistent with the hourly
20 wage indicated by *Home Depot*.

21
22 Mr. Parisi suggested that Commissioner Johansen review the actual uses, noting
23 that they include heavy manufacturing, smelting, mining and steel mills, pointing
24 out that these types of uses don’t actually belong there and that more precision is
25 necessary in determining what could actually be located at this site on Beaverton/
26 Hillsdale Highway. He mentioned that the most profitable uses that could be
27 located here include automobile sales and mining, neither of which would even be
28 considered by the City of Beaverton.

29
30 Commissioner Lynott requested clarification of how *Home Depot* had determined
31 this location for their store.

32
33 Mr. Parisi advised Commissioner Lynott that he is not certain how *Home Depot*
34 determines a store location.

35
36 **JIM LYON**, Real Estate Manager for *Home Depot*, advised Commissioner
37 Lynott that many different issues are considered in determining a location for a
38 store, adding that the priority is a location that would generate a great volume of
39 business. He pointed out that consideration is given to the pattern of existing
40 stores and customer source surveys, adding that opportunities are reviewed on an
41 annual basis in an attempt to determine coverage areas that are not being
42 adequately served by existing stores.

43
44 Commissioner Lynott questioned where the customers who are not being
45 adequately served are purchasing their supplies at this time.
46

1 Mr. Parisi observed that while some of these customers are shopping at *Home*
2 *Depot*, others are shopping at *Home Base* and other independent retailers, some of
3 which are not necessarily home improvement centers.
4

5 Commissioner Lynott questioned whether *Home Depot* requires a certain
6 population size in order to generate sufficient business for a new store.
7

8 Mr. Parisi advised Commissioner Lynott that 50,000 to 55,000 households would
9 generate sufficient business for a new store.
10

11 Chairman Voytilla questioned the access to the parking structure for vehicles that
12 would be necessary to carry some of the larger supplies.
13

14 Mr. Parisi informed Chairman Voytilla that he believes that the access has a
15 clearance of approximately eleven or twelve feet, emphasizing that this parking
16 lot is quite substantial would not represent a typical parking lot.
17

18 Ms. Kuhn Butorac mentioned that a typical vehicle that might come through
19 would be a box van, which she described as similar to a bread delivery truck,
20 noting that provisions had been made to allow access for these vehicles and
21 contractor vehicles.
22

23 Chairman Voytilla questioned whether trailers would have the ability to maneuver
24 throughout the parking areas.
25

26 Ms. Kuhn Butorac advised Chairman Voytilla that *WRG Associates* had reviewed
27 and determined that the truck turning movements throughout the site would be
28 adequate.
29

30 Chairman Voytilla requested clarification of the location of the east wall relative
31 to the property line.
32

33 Mr. Parisi informed Chairman Voytilla that the east wall would be located on the
34 *Home Depot* portion of the property line, adding that the applicant would own and
35 maintain this wall and that all construction activities could be performed from the
36 applicant's side of the property line.
37

38 Commissioner Maks expressed concern with the ownership of the 0.691-acre
39 tract.
40

41 Mr. Parisi stated that the ownership of this tract must be any third party not
42 controlled by Kemeny, pointing out that because *Home Depot* is merely leasing
43 the store site property, they could maintain ownership of the 0.691-acre tract. On
44 question, he advised Chairman Voytilla that the perpetual maintenance of that
45 wall has not yet been addressed, although the landscaping that would be located
46 there to provide screening would need to be maintained by *Home Depot*. He

1 emphasized that this strip of land would be burdened with a no-build easement,
2 adding that it could also be burdened by a maintenance easement.

3
4 Chairman Voytilla requested clarification of the term of the lease on this property.

5
6 Mr. Parisi advised Chairman Voytilla that the term of the lease on this property is
7 twenty and twenty.

8
9 Mr. Lyon informed Chairman Voytilla that the lease is a twenty-year primary
10 term with five additional five-year options.

11
12 Observing that there appears to be a preponderance of food vendors in front of
13 other *Home Depot* stores, Chairman Voytilla questioned whether the applicants
14 intend to add any additional food vendors.

15
16 Mr. Parisi expressed his opinion that there is no room for additional food vendors
17 in this area, adding that this could be prohibited through a Condition of Approval.
18 He described the structured parking lot that had been planned, observing that a
19 great deal of landscaping has been included in order to provide some buffering,
20 adding that displays of seasonal items, such as barbecues, in the parking lot, has
21 all been prohibited.

22
23 Chairman Voytilla questioned whether rental trucks would be stored at the site or
24 whether this use is prohibited.

25
26 Mr. Parisi advised Chairman Voytilla that while this use is not prohibited, it has
27 not yet been addressed, adding that often, having these rental trucks available on-
28 site reduces unnecessary vehicle trips. He pointed out that the employees are able
29 to load the trucks and the customer merely picks up the keys and drives away,
30 emphasizing that these trucks are not considered outdoor display. He mentioned
31 that the six foot wall would not shield the entire truck from view, noting that the
32 store does not have the capacity for the storage of these vehicles inside and that
33 due to fire safety issues, they can not be parked behind the store.

34
35 Chairman Voytilla mentioned the possibility of home deliveries from the store,
36 specifically where these sizable vehicles would be parked.

37
38 Mr. Parisi informed Chairman Voytilla that adequate space is not available to
39 park these large vehicles on-site, noting that other options for deliveries would
40 have to be explored. He mentioned that the applicant had anticipated dealing with
41 these particular issues on the design review level.

42
43 Chairman Voytilla requested clarification of how semi-trucks and trailers would
44 access the site.

45

1 Ms. Kuhn Butorac indicated the proposed truck circulation on an illustration,
2 observing that these vehicles would travel north on Western Avenue, eastbound
3 on 5th Street, entering the site near the cul-de-sac.
4

5 Chairman Voytilla requested clarification of visibility of the store to adjacent
6 homeowners.
7

8 Observing that this involves speculation, Mr. DeAlmeida informed Chairman
9 Voytilla that while the top of *Home Depot* would be visible from some angles,
10 trees would provide screening to prevent this from becoming an issue.
11

12 Chairman Voytilla requested clarification of what has been proposed for rooftop
13 devices.
14

15 Observing that this would be an air-conditioned store, Mr. DeAlmeida pointed out
16 that skylights would be divided into zones and the small air-conditioning units
17 would be situated on a small platform. Noting that the store has a sloping roof on
18 the inside with a uniform parapet as a design feature, he mentioned that the roof
19 gets a lot lower to the south of the property and that the air-conditioning units are
20 generally covered by the parapet. He commented that the roof height is
21 significantly lower and shields the units, emphasizing that these are only small
22 area air-conditioners.
23

24 Chairman Voytilla referred to the pole-mount lighting on the upper deck of the
25 parking structure, and questioned the glare that would be created by the actual
26 light source itself.
27

28 Observing that this had been discussed at great length, Mr. DeAlmeida advised
29 Chairman Voytilla that they had determined the shortest possible light standard –
30 twenty feet – noting that they would be located on the inside, rather than the
31 parameter. He described one area in which problems had been anticipated, adding
32 that the shields would be adjusted on site.
33

34 Chairman Voytilla expressed concern with the potential effect of the light sources
35 upon the neighboring residences.
36

37 Mr. DeAlmeida expressed his opinion that the applicant had done a good job of
38 mitigating any effects on the neighbors, adding that they have no objection to
39 making additional efforts, as necessary.
40

41 Chairman Voytilla requested clarification of the height of the light, relative to the
42 height of the building.
43

44 Mr. DeAlmeida informed Chairman Voytilla that at the request of staff, the light
45 fixtures have been designed to be twenty feet in height, from the top of the deck
46 to the lamp, adding that the building height is approximately 32 to 34 feet.

1
2 Chairman Voytilla observed that the lighting is essentially higher than the
3 building and expressed concern with the potential for glare from the lights. He
4 requested clarification of the hours that the lights would be utilized.

5
6 Mr. DeAlmeida observed that certain lights would be on during normal hours of
7 operation, adding that the dimmer security lighting would be in effect during
8 other hours, possibly on a 24-hour basis.

9
10 Commissioner Bliss questioned the type of element and wattage of the lights that
11 would be located on top of structure.

12
13 Mr. DeAlmeida advised Commissioner Bliss that he does not have this
14 information.

15
16 Observing that a portion of the picture is not being identified, Commissioner Bliss
17 pointed out that any glare issues should be easily addressed.

18
19 Commissioner Barnard requested clarification that because there is not sufficient
20 room, the larger vehicles would not be stored on the site.

21
22 Mr. Parisi advised Commissioner Barnard that it is his understanding that these
23 larger vehicles would not be stored on the site. Observing that he is not an expert
24 on operations, he pointed out that contrary to what he had anticipated, the Murray
25 Boulevard store is a high contractor store, while the Hillsboro store is more urban.

26
27 Commissioner Lynott requested clarification on how this particular location had
28 been determined for the new store.

29
30 Mr. Lyon explained that even with the existing stores located in Beaverton,
31 Hillsboro and Tigard, *Home Depot* had determined that a very large area is not
32 being served.

33
34 Commissioner Lynott questioned whether any other Beaverton locations are
35 feasible for this store.

36
37 Chairman Voytilla reminded Commissioner Lynott that this particular issue is not
38 included in the criteria for a Conditional Use Permit.

39
40 Commissioner Bliss pointed out that his questions and concerns regarding traffic
41 and drainage had been addressed through the Facilities Review Conditions of
42 Approval.

43
44 Commissioner Maks questioned whether the proposed eight-foot wall would be
45 adequate to address the noise concerns of the second-story residents at 5175 SW
46 Elm Street.

1
2 Mr. Standlee advised Commissioner Maks that the scenario would involve
3 possibly two trucks per day for a matter of seconds driving by the area.
4

5 Commissioner Maks referred to the top story of the parking structure.
6

7 Mr. Standlee informed Commissioner Maks that this is located on the other side
8 of the building from the property to which he is referring, adding that the building
9 should provide a barrier for any noise that is generated.
10

11 Commissioner Maks stated that vehicles would be exiting the parking structure
12 onto 5th Street, pointing out that the noise that concerns him involves the starting
13 and taking off of the vehicle, and requested clarification of how an eight-foot wall
14 would solve this problem.
15

16 Observing that the area in question is located on the south end of Elm Street, Mr.
17 Standlee pointed out that all of the traffic would occur at a lower elevation and
18 that the parking structure itself would provide a barrier to any sound.
19

20 Commissioner Maks emphasized that the parking structure would not provide a
21 barrier for 5th Street, adding that these vehicles would turn onto and accelerate up
22 5th Street. He expressed his concern that this eight-foot sound wall would not
23 provide the necessary buffering.
24

25 Mr. Standlee assured Commissioner Maks that the eight-foot sound wall would
26 provide the necessary buffer, pointing out that the noise source is located at an
27 elevation of approximately one foot above the road.
28

29 Commissioner Maks emphasized that any noise source located above the noise
30 wall would receive the amount of noise and/or greater, due to magnification off of
31 buildings, walls and other solid surfaces.
32

33 Mr. Standlee explained that the half of the Elm Street properties that are located
34 to the south of the edge of the north side of the building would experience none of
35 this noise, pointing out that a double barrier (the building and the eight-foot wall)
36 is in effect. He further clarified that the southern properties are elevated relative
37 to the roadway surface and have an additionally effective higher barrier, relative
38 to the cars on the street.
39

40 Chairman Voytilla questioned whether it is safe to assume that sound travels in a
41 lineal manner.
42

43 Mr. Standlee advised Chairman Voytilla that sound actually travels radially.
44

45 Chairman Voytilla questioned the effect of the delivery trucks along the easterly
46 access road and the reflective sound that would be radiating from the building

1 back to the residents, and the effect of a typical contractor's vehicle coming down
2 the ramp and the reflective sound off of that.

3
4 Mr. Standlee advised Chairman Voytilla that this is how the height of the wall had
5 been determined -- in order to make certain that the reflective sound did not go
6 over without having any barrier.

7
8 Referring to the twenty-year lease with additional five-year options,
9 Commissioner Maks questioned the feasibility of conditioning the hours of
10 operation.

11
12 Mr. Parisi observed that the applicant had agreed to conditioning of the delivery
13 hours, adding that while it might become economically non-feasible at some
14 point, they had also agreed to conditioning of the hours of operation in some
15 fashion.

16
17 Commissioner Maks emphasized that a Conditional Use Permit CUP travels with
18 the land, not the use. He expressed concern with the sound generated by the
19 HVAC equipment, specifically the intake/outtake system, adding that this
20 particular noise creates a great deal of problem for the neighbors.

21
22 Mr. Parisi advised Commissioner Maks that Neighborhood Condition of Approval
23 No. 18 basically requires that the noise levels of the HVAC equipment not exceed
24 a certain level.

25
26 **RANDY LUTOSTANSKI**, District Manager for *Home Depot*, observed that the
27 lights are turned off an hour after the store closes and turned on an hour prior to
28 opening the store. He pointed out that central delivery services are provided by
29 *Cardinal Delivery*, adding that all trucks are stored at the Hillsboro/Aloha
30 location. Observing that the Northeast Portland store is responsible for
31 coordination of all deliveries, he described what he referred to as a very efficient
32 process.

33
34 9:49 p.m. to 10:10 p.m. -- break.

35
36 **PUBLIC TESTIMONY:**

37
38 **SALLY DAVIS** mentioned that she lives in the Stanwood Manor Condominiums
39 and stated that this is the first time she has addressed the Planning Commission.
40 She discussed her concerns with the proposed development and expressed her
41 approval of restricting hours of delivery and operation, emphasizing that there are
42 currently no provisions preventing any applicant from a 24-hour operation. She
43 mentioned concerns with a left turn lane and potentially blocking access.

44
45 Mr. Ryerson clarified that Commissioner Maks had discussed the additional fifty-
46 foot stacking within the left turn lane.

1 Ms. Davis expressed her opinion that there is a potential for this traffic to back up
2 further than the additional fifty feet, observing that this could back up into the
3 driveway of Stanwood Manor Condominiums creating access problems for those
4 residents.

5
6 Commissioner Maks mentioned the 95% queuing ratio described by Mr.
7 Morrison, and questioned the location of the driveway to her units.

8
9 Ms. Davis informed Commissioner Maks that the driveway is located
10 approximately a half a block from the units.

11
12 **MARILYN MATTESON** stated that she resides at Stanwood Manor
13 Condominiums and read a letter explaining her objections to the application, as
14 follows: 1) The size of the complex is too large for the lot size and for retail
15 stores in a Campus Industrial zone; 2) The store will have too many impacts on
16 nearby houses, condominiums and apartments; 3) The traffic on Western Avenue
17 is a heavily-traveled route that may be scheduled for a Beaverton photo-radar van
18 to catch speeders, and why add 4,000 additional cars per day to this already
19 clogged connector road that has become a dangerous liability; and 4) The loss of
20 income that would be caused by selling her condominium to potential buyers who
21 would offer less because of affect of the development. Pointing out that Oregon
22 voters had approved Measure 7 to protect property owners from such losses, she
23 emphasized that this site should be reserved for light industrial and small retail, as
24 currently and appropriately zoned. Concluding, she requested that this application
25 be denied.

26
27 **SETH ALFORD** summarized one of two letters he had submitted, pointing out
28 that he had served on the City of Beaverton Planning Commission in 1988 and
29 1989, pointing out that an application for an *Office Depot* at this same location
30 had been denied for the same reasons that the application for *Home Depot* should
31 be denied at this time. He emphasized that the questions asked tonight indicate
32 that the same issues exist that existed twelve years ago when the application for
33 *Office Depot* was considered. He discussed the lot line adjustment on the eastern
34 portion of the property, pointing out that this would allow for a 24-hour operation,
35 at the discretion of the applicant, adding that because this is already occurring at
36 their store in Tigard, this is not merely a theoretical possibility. He urged the
37 Planning Commissioners to consider the possibility of this big box development
38 closing at some future point, adding that a *Costco* that had closed in Tualatin had
39 been converted into a *Club Sport*, which could easily create compatibility
40 problems similar to those experienced with *The Hoop*. He pointed out that the
41 *Home Depot* on Murray Boulevard does display merchandise outside of the store,
42 adding that while this is inherent with this type of use, it is in violation of what is
43 allowed in the Campus Industrial zone.

44
45 Mr. Alford referred to page 23 of the Staff Report, specifically Section 3.6.2.4,
46 which provides that a functional and attractive mix of office and light industrial

1 uses should be encouraged in areas designated on the Plan for Campus Industrial
2 and that a limited but complimentary number of commercial and other non-
3 industrial uses will improve these areas' attractiveness as employment centers.
4 He discussed the responsibility of the Planning Commission to review and update
5 the Comprehensive Plan, expressing his opinion that there is no way that the
6 limited but complimentary uses that will improve these areas' attractiveness as
7 employment centers would include a giant, big-box retailer such as *Home Depot*.
8 He pointed out that these complimentary uses would provide for sandwich shops,
9 dry cleaners, day care centers and other such uses.

10
11 Mr. Alford emphasized that one of the reasons that Office Depot had been denied
12 was because the proposed site is prime industrial property, located near rail
13 service and Highway 217. He noted that it is necessary to protect this industrial
14 property and the jobs associated with that industrial property. He pointed out that
15 it is necessary to consider the land use, the zoning and the Development Code,
16 rather than what the applicant is saying.

17
18 Chairman Voytilla requested Mr. Alford to briefly summarize his comments.

19
20 Mr. Alford pointed out that two other appropriate sites for this development are
21 available in the City of Beaverton, specifically the *Home Depot* that is going out
22 of business and *Montgomery Wards* that has already gone out of business.

23
24 Commissioner Johansen suggested the possibility of conditioning the hours of
25 operation for this use.

26
27 Mr. Alford agreed that the hours of operation could be appropriately conditioned,
28 adding that he hopes this does occur if this development is approved.

29
30 Mr. Ryerson clarified that the Campus Industrial zone does not require a
31 Conditional Use Permit to operate on a 24-hour basis, emphasizing that this
32 opportunity already exists.

33
34 **LESLIE HERREN** testified as a private individual and Chairman of the Board of
35 Directors for the Stanwood Manor Condominiums, adding that she would like to
36 clarify that the approval for the gate is conditional upon approval by the Oregon
37 Department of Transportation (ODOT) and has not yet been received. She
38 emphasized that this does not indicate that the association even wants or desires
39 the gate, noting that the homeowners do not want the gate and would like *Home*
40 *Depot* to buy them out. Observing that she represents 32 homeowners who feel
41 that they will not be able to sell their property once this development occurs. She
42 emphasized that the property northeast of the proposed development would be
43 adversely affected. She mentioned that while she feels certain that *Home Depot*
44 would maintain this property that is not currently maintained, when the applicant
45 moves on in the future, the property owners would have the view of an abandoned
46 parking lot. She commented that the lights from the parking lot would be vented

1 to prevent the light from glaring into the Elm Street neighborhood, expressing
2 concern that nothing has been proposed to provide this same consideration from
3 the residents of the Stanwood Manor Condominiums. She expressed concern
4 with a potentially dangerous situation that would be caused by the proposed gate,
5 noting that the residents of both Stanwood Manor Condominiums and
6 Springbrook Apartments would be forced to turn left onto Beaverton Hillsdale
7 Highway, which she referred to as "suicide lane". Concluding, she emphasized
8 that she is opposed the proposed development.

9
10 **APPLICANT REBUTTAL:**

11
12 Mr. Parisi clarified that the conditioned hours of operation for the store have been
13 proposed from 7:00 a.m. to 9:00 p.m. on weekdays, and 8:00 a.m. to 8:00 p.m. on
14 Sundays.

15
16 **TODD SADLO** discussed efforts to preserve as much of the grove of trees as
17 possible in order to mitigate impacts on the neighbors, adding that while this
18 would not provide a great deal of sound buffering, it would provide some visual
19 mitigation. He emphasized that an arborist would be available on site during the
20 construction of the wall in order the provide assistance in preserving those trees.
21 He discussed the issues regarding retail in this particular zone, pointing out that
22 the applicant had calculated this every possible way, adding that the Planning
23 Commission has the legal option of characterizing their use as part wholesale as
24 well as retail use. He noted that ten acres that has been eliminated from this zone
25 is being utilized as roads, commenting that the Development Code refers to all of
26 the land in the zoning district, regardless of its use. He discussed the necessity of
27 a greater flexibility within this zone, questioning whether coffee shops and
28 sandwich shops are even a feasible use within this area.

29
30 Mr. Parisi observed that he had been mistaken when he indicated the proposed
31 hours of operation, adding that Mr. Lyon had corrected him, as follows: 6:00 a.m.
32 to 10:00 p.m. on weekdays; 7:00 a.m. to 9:00 p.m. on Saturday; and 8:00 a.m. to
33 8:00 p.m. on Sunday.

34
35 Mr. Sadlo emphasized that the applicant had taken extreme measures in an
36 attempt to mitigate every impact from this proposed development.

37
38 Commissioner Bliss expressed his confusion regarding the operating hours, and
39 Mr. Parisi advised him that deliveries and maintenance would operate under a
40 different schedule than the actual store operation.

41
42 Mr. Morrison stated that Ms. Herren's comment that Stanwood Manor
43 Condominium's would require a permit from ODOT is not quite accurate, adding
44 that the City of Beaverton has approved the gate, which is located away from the
45 Beaverton/Hillsdale Highway by a fair distance. He noted that the permit she had
46 referred to involves a basic access permit to work within the right-of-way at

1 Beaverton/Hillsdale Highway, adding that one of the Conditions of Approval had
2 provided that the driveway be improved to current City standards and emphasized
3 that this gate should not be an issue with ODOT.
4

5 Mr. Ryerson requested that Commissioner Johansen provide a copy of the
6 employment and wage information he had submitted to be entered into the record,
7 adding that the Facilities Review Conditions of Approval would also be entered
8 into the record.
9

10 City Attorney Ted Naemura referred to page 23 of the Staff Report, specifically
11 Policy No. 3.6.2.2, which states that light industrial areas designated on the plan
12 should be retained for industrial use, emphasizing that this phrase should not be
13 equated to the term "light manufacturing uses".
14

15 Commissioner Johansen requested clarification of whether a standard legal
16 interpretation provides that a non-capitalized term takes on a specific meaning,
17 expressing his opinion that light industrial is a capitalized term matching up with
18 the zone.
19

20 Commissioner Maks referred to page 328 of the Comprehensive Plan, Section 3.6,
21 specifically the second paragraph, observing that the I in Industrial Park is
22 capitalized. He mentioned that within other areas of industrial objectives,
23 specifically Policy No. 3.6.2.5, 3-30, Campus Industrial is also capitalized.
24

25 Mr. Naemura expressed his opinion that this is too fine of a distinction to support
26 such an interpretation, adding that if that section were going to discuss
27 manufacturing uses, it would have done so.
28

29 Commissioner Maks advised Mr. Naemura that he is attempting to clarify whether
30 he could supplement the Light Industrial zone and the Campus Industrial zone.
31

32 Mr. Naemura informed Commissioner Maks that this would be a different issue,
33 adding that he is referring to the issue that he was discussing earlier. He observed
34 that figures might not be available regarding available industrial property in the
35 City of Beaverton, pointing out that this would not provide any assistance in
36 decision-making based on conditional use criteria. He added that the supply of
37 industrial land might be more appropriate to some other more policy-related
38 proceedings, such as revisions to the Comprehensive Plan. He clarified that
39 regardless of the amount of available land, it does not affect the evaluation of this
40 conditional use proposal, and that 10% of this particular Development Control
41 Area (DCA) is still available for retail use.
42

43 Commissioner Barnard requested clarification of whether the DCA requires that
44 10% be utilized for retail use as a minimum or maximum standard.
45

1 Mr. Naemura observed that while the availability of land is an interesting factor, it
2 is a moot point with no bearing on the fact that up to 10% of this property is
3 available for retail use.

4
5 Commissioner Johansen referred to Policy No. 3.6.2.11, which specifically
6 involves the promotion of diversified economic growth.

7
8 Mr. Naemura emphasized that regardless of the discussion, 10% of that property
9 is available for retail use.

10
11 Chairman Voytilla requested whether this 10% involves gross acreage, or net
12 acreage, which eliminates the roads.

13
14 Mr. Naemura advised Chairman Voytilla that in his opinion, the ordinance
15 guideline reflect the proper treatment of the right-of-way, providing for the initial
16 figures and initial acreage, which he referred to as a distinction without a
17 difference.

18
19 Chairman Voytilla pointed out that this property is under some form of a lease
20 with the underlying owner, adding that there has been some discussion of a
21 potential agreement with neighbors for Conditions of Approval.

22
23 Mr. Naemura referred to Exhibit No. 7, which provides the applicant's proposed
24 neighborhood mitigation conditions, adding that staff should be able to clarify
25 which would be appropriate for Planning Commission Conditions of Approval
26 and what would be appropriate to be included in a Good Neighbor Agreement.

27
28 Commissioner Maks requested that staff expand on the applicant's proposed
29 neighborhood mitigation conditions, as indicated by Mr. Naemura.

30
31 Mr. Ryerson clarified the applicant's proposed neighborhood mitigation
32 conditions, as follows:

- 33
34 • Condition Nos. 1 – 7 -- possible City conditions;
35
36 • Condition Nos. 10, 11, 12, 17, 18 and 19 -- possible City
37 conditions or neighborhood conditions; and
38
39 • Condition No. 13 – the Board of Design Review has a standard
40 condition with regard to HVAC system screening, although
41 obviously the Planning Commissioners have additional
42 opportunities to condition the impact to the surrounding
43 neighborhood.
44

- Condition No. 11 – the Board of Design Review also has a similar type of standard Condition of Approval with regard to lighting and illumination that is not to extend beyond the property line.

Commissioner Maks questioned whether the Board of Design Review's standard language regarding HVAC systems involves visual or audio screening.

Mr. Ryerson advised Commissioner Maks that the Board of Design Review addresses visual screening of HVAC systems.

Commissioner Maks observed that the applicant's proposed Condition No. 13 provides for necessary audio screening of the HVAC system.

Mr. Naemura requested clarification of whether the conditions that Mr. Ryerson had not discussed would be considered specifically for neighborhood conditions.

Mr. Ryerson advised Mr. Naemura that the remaining conditions, including Condition Nos. 8, 9, 13, 14, 15 and 16 would be possible neighborhood conditions, while Condition Nos. 18 and 19 could be City or neighborhood conditions.

The public portion of the Public Hearing was closed.

Commissioner Maks **MOVED** and Commissioner Johansen **SECONDED** a motion to suspend the rules and allow the Planning Commission to take any necessary action until 11:30 p.m.

Commissioner Johansen expressed his opinion that this particular application is more complicated than most conditional use permits, adding that it involves some significant Comprehensive Plan and Development Code issues. He emphasized that the applicant has done a commendable job of designing the facility to be sensitive to neighborhood needs, adding that while he believes there would be some impact, he believes that proper conditions could provide compatibility with the surrounding neighborhood. He pointed out that while traffic impacts are not an issue in this application, he is not quite comfortable with the 10% retail limitation or guidelines regarding what does and does not constitute outside storage for the garden center and expressed his opinion that any open air facility involves outside storage. He commented that meeting legal criteria does not necessarily meet the intent of the Development Code.

Commissioner Johansen stated that this application does not meet Policy No. 3.6.2.2, which specifically states that light industrial areas designated on the plan should be retained for industrial use, observing that a conditional use permit for a retail facility that is eight times larger than the maximum permitted size for this use is inconsistent with the goals of retaining light industrial land for industrial uses. He referred to Policy No. 3.6.2.7, which provides that community efforts

1 should be directed toward preserving prime industrial lands for industrial
2 purposes, noting that the Comprehensive Plan refers to this as prime industrial
3 land. He emphasized that this statement in the Comprehensive Plan should not be
4 ignored, adding that this requirement must be met and that this proposal is not
5 consistent with this policy of preserving prime industrial lands. He mentioned
6 that he is no longer concerned with Policy No. 3.6.2.4, which provides for a
7 functional and attractive mix of office and light industrial uses and a limited but
8 complimentary number of commercial and other non-industrial uses. Referring to
9 Policy No. 3.6.2.11, which specifically states that industrial lands should be used
10 by industries which will enhance the livability of the area and help to promote
11 diversified economic growth, he expressed his opinion that this policy speaks
12 directly toward the diversity of our economic development in the City of
13 Beaverton and that in this case, information is not available regarding the
14 availability of industrial property within the City and whether that availability will
15 meet future needs. He pointed out that the burden of proof to meet the
16 requirements of a Conditional Use Permit is with the applicant, adding that the
17 information available would not allow the Planning Commission to make a
18 positive finding with respect to this policy. With respect to both the
19 Comprehensive Plan and the Development Code, he emphasized that the bottom
20 line is that he does not support this particular application, which does not meet the
21 second criteria for a CUP.

22
23 Chairman Voytilla echoed Commissioner Johansen's assessment of concerns
24 relative to issues regarding the Comprehensive Plan, and complimented both the
25 applicant and their design team for their efforts on this project. Observing that it
26 is up to the applicant to work out conditions of agreement with the neighbors, he
27 stated that although he believes that proper conditioning could address his
28 concerns, he would have to reluctantly deny the application.

29
30 Expressing his opinion that the plans illustrate what he considers the nicest *Home*
31 *Depot* he has ever seen, Commissioner Barnard emphasized that he is struggling
32 with Comprehensive Plan criteria and is not in support of the application.

33
34 Commissioner Lynott stated that although the applicant has done a wonderful job
35 with their proposal, because of the potential adverse effect on the surrounding
36 community, this is not what he considers the best use of this and he does not
37 support the application.

38
39 Commissioner Bliss agreed that the application had been very well done, adding
40 that because of his concern with compatibility, he also does not support the
41 application.

42
43 Observing that he approves of big box development, which he feels establishes a
44 standard for the urban style of a large retailer of this type, Commissioner Maks
45 expressed his opinion that the application had been extremely well prepared. He
46 discussed the necessity of reducing vehicular traffic and air pollution and

1 increasing pedestrian flow. He pointed out that because the application meets
2 some, but not all, of the applicable criteria, he is unable to support the proposal,
3 which he feels is an industrial use that is incompatible with the surrounding
4 neighborhood because of the size, nature and single focus of the project. He
5 expressed his appreciation for the efforts of both the applicant and the neighbors,
6 adding that it is unfortunate that he could not support a motion for approval.
7

8 Commissioner Maks **MOVED** and Commissioner Barnard **SECONDED** a
9 motion to deny CUP 99-00032 – Home Depot Conditional Use Permit, observing
10 that after receiving the Staff Report, as amended, dated March 28, 2001,
11 considering additional exhibits and testimony from both the applicant and the
12 public, he feels that this application does not satisfy Conditional Use Permit
13 Criterion No. 2 and elements of the Comprehensive Plan, specifically Policy Nos.
14 3.6.2.2; 3.6.2.4; 3.6.2.7; and 3.6.2.8.
15

16 Commissioner Johansen requested clarification of whether Commissioner Maks
17 intended to include Comprehensive Plan Policy No. 3.6.1.2, which he had referred
18 to in his discussion prior to his motion.
19

20 Commissioner Maks advised Commissioner Johansen that he had pointed out in
21 his comments that the application does not satisfy Comprehensive Plan Policy No.
22 3.6.1.2, although he had deliberately not included this in his motion.
23

24 Commissioner Johansen mentioned that his own comments had cited
25 Comprehensive Plan Policy No. 3.6.2.11.
26

27 On question, Commissioner Maks informed Commissioner Johansen that he
28 would not accept a friendly amendment, specifically to include Comprehensive
29 Plan Policy NO. 3.6.2.11, to his main motion for denial of the application.
30

31 Commissioner Johansen **MOVED** and Commissioner Lynott **SECONDED** a
32 motion to amend the main motion to include Comprehensive Plan Policy No.
33 3.6.2.11, specifically to reflect the statement that industrial lands would be used
34 by industries, which would promote diversified economic growth.
35

36 Mr. Naemura requested clarification of what Commissioner Johansen intended to
37 add for his grounds for this amendment.
38

39 Commissioner Johansen cited industrial policy – Comprehensive Plan Policy No.
40 3.6.2.11.
41

42 Mr. Naemura suggested that since the Staff Report had recommended approval of
43 the application, the motion to deny should be based on the grounds that arose in
44 the deliberations of the Planning Commission.
45

1 Commissioner Maks responded that he had attempted to create a motion that
2 would have the best possible defense in regard to a potential appeal, adding that
3 this is why he had not cited all of the policies that had been discussed during the
4 deliberations. He agreed with Mr. Naemura's statement that his motion for denial
5 is grounded chiefly on the policies he had listed, adding that most of these
6 policies had been addressed by the majority of the Planning Commissioners.
7

8 Commissioner Johansen **WITHDREW** his motion and Commissioner Lynott
9 **WITHDREW** his second to the motion to amend the main motion to include
10 Comprehensive Plan Policy No. 3.6.2.11, specifically to reflect the statement that
11 industrial lands would be used by industries, which would promote diversified
12 economic growth.
13

14 Commissioner Maks **WITHDREW** his motion and Commissioner Barnard
15 **WITHDREW** his second to the motion to deny CUP 99-00032 – Home Depot
16 Conditional Use Permit, observing that after receiving the Staff Report, as
17 amended, dated March 28, 2001, considering additional exhibits and testimony
18 from both the applicant and the public, he feels that this application does not
19 satisfy Conditional Use Permit Criterion No. 2 and elements of the
20 Comprehensive Plan, specifically Policy Nos. 3.6.2.2; 3.6.2.4; 3.6.2.7; and
21 3.6.2.8.
22

23 Mr. Naemura suggested that Commissioner Maks' motion qualify certain criteria
24 and policies as being chiefly the grounds for his motion for denial of the
25 application.
26

27 Commissioner Maks **MOVED** and Commissioner Barnard **SECONDED** a
28 motion to deny CUP 99-00032 – Home Depot Conditional Use Permit, observing
29 that having received the Staff Report dated March 28, 2001, as amended, the
30 additional testimony and exhibits from the applicant and the public, he feels that it
31 does not satisfy Conditional Use Permit Criterion No. 2, which cites the
32 Comprehensive Plan, specifically Policy Nos. 3.6.2.2; 3.6.2.4; 3.6.2.7; and
33 3.6.2.8, based on the deliberation of the Planning Commission this evening with
34 regard to those specific policies.
35

36 Commissioner Johansen **MOVED** to amend the main motion to include
37 Comprehensive Plan Policy No. 3.6.2.11, specifically to reflect the statement that
38 industrial lands would be used by industries, which would promote diversified
39 economic growth.
40

41 Mr. Naemura suggested that Commissioner Johansen include the industrial
42 policies listed in what he referred to as Comprehensive Plan Policy No. 3.6, which
43 applies to all industrial zones.
44

45 Commissioner Johansen **WITHDREW** his motion to amend the main motion to
46 include Comprehensive Plan Policy No. 3.6.2.11, specifically to reflect the

1 statement that industrial lands would be used by industries, which would promote
2 diversified economic growth.

3
4 Commissioner Barnard requested clarification of whether the main motion had
5 satisfied counsel's recommendation.

6
7 Mr. Naemura observed that this situation provided sufficient precision during
8 deliberations to provide for a written order that satisfies the intent of the Planning
9 Commission, adding that there should be no possibility for legal argument that the
10 written order differs from the oral motion, emphasizing the necessity of precision
11 in this motion.

12
13 Commissioner Maks **WITHDREW** his motion and Commissioner Barnard
14 **WITHDREW** his second to the motion to deny CUP 99-00032 – Home Depot
15 Conditional Use Permit, observing that having received the Staff Report dated
16 March 28, 2001, as amended, the additional testimony and exhibits from the
17 applicant and the public, he feels that it does not satisfy Conditional Use Permit
18 Criterion No. 2, which cites the Comprehensive Plan, specifically Policy Nos.
19 3.6.2.2; 3.6.2.4; 3.6.2.7; and 3.6.2.8, based on the deliberation of the Planning
20 Commission this evening with regard to those specific policies.

21
22 Commissioner Maks **MOVED** and Commissioner Barnard **SECONDED** a
23 motion to suspend the rules and allow the Planning Commission to take any
24 necessary action for ten more minutes until 11:40 p.m.

25
26 Motion **CARRIED**, unanimously.

27
28 Maks **MOVED** and Barnard **SECONDED** a motion to deny CUP 99-00032 –
29 Home Depot Conditional Use Permit, observing that having received the Staff
30 Report dated March 28, 2001, as amended, including the additional testimony and
31 exhibits by the applicant and the public, he feels that the application does not
32 meet Criterion No. 2 of the Conditional Use Permit, based on the discussion of the
33 Comprehensive Plan, purpose, policies and objectives contained in the
34 deliberations this evening, and instructing staff to prepare the appropriate final
35 order and submit it to the Planning Commission for their approval.

36
37 Motion **CARRIED**, unanimously.

38
39 **MISCELLANEOUS BUSINESS:**

40
41 Chairman Voytilla mentioned that nothing is on the agenda so there will be no
42 meeting on Wednesday, April 11, 2001.

43
44 The meeting adjourned at 11:30 p.m.